



City of Hampton, VA

Meeting Minutes

City Council

22 Lincoln Street
Hampton, VA 23669
www.hampton.gov

Ross A. Kearney, II
Will Moffett
Joseph H. Spencer, II
Molly Joseph Ward, Mayor

Christopher G. Stuart
Donnie R. Tuck
George E. Wallace

Staff:
Mary Bunting, City Manager
Cynthia Hudson, City Attorney
Katherine K. Glass, CMC, Clerk of Council

Wednesday, April 11, 2012 1:00 PM Council Chambers, 8th Floor, City Hall

CALL TO ORDER/ROLL CALL

MOLLY JOSEPH WARD PRESIDED

PRESENT: Will Moffett, Joseph H. Spencer, II, Christopher G. Stuart, Donnie R. Tuck, George E. Wallace

ABSENT: Ross A. Kearney, II

Mayor Ward welcomed everyone to the afternoon session.

AGENDA

1. 12-0131 Briefing on proposed study to further regionalization of wastewater systems

Ms. Bunting gave the following introduction. The Environmental Protection Agency (EPA) and State Department of Environmental Quality (DEQ) wastewater and sewer requirements and regulations are increasing causing financial pressure on all localities in our region and the Hampton Roads Sanitation District (HRSD). Cities are responsible for taking wastewater from homes through the sewer lines to HRSD treatment facilities. HRSD is responsible for treating the wastewater, cleaning it and getting it back into circulation. As a result of these pressures, it has been propositioned that this dual system be revisited and consider regionalizing the wastewater system so that it is under the control and responsibility of one entity. There are pros and cons regarding this suggestion which need additional study to understand the cost benefits, impacts, manpower issues and other benefits. There has been conversation that regionalization should be considered; however, it should be done within the next year before costs bear down upon us. If DEQ relieves us for one year in order to do that study and work through issues such as manpower and asset management, it would be worth doing the study now.

Ms. Bunting introduced HRSD Executive Director Mr. Ted Henifin to review the proposed study HRSD has agreed to fund which would be monitored by the Hampton Roads

Planning District Commission (HRPDC). She noted following Mr. Henifin's presentation, Public Works Director Mr. Anthony Reyes would comment on staff's recommendation.

Mr. Henifin greeted the Mayor and Councilmembers and gave a brief history regarding how HRSD was formed. Approximately 70 years ago, the shellfish beds of Hampton Roads were condemned for shell-fishing by the Department of Health. It took from 1925-1940 to decide as a region that something needed to be done about the 30 million gallons of raw sewage being dumped in the Hampton Roads area per day. This went to the General Assembly and by referendum HRSD was formed in an effort to keep pollution out of Hampton Roads. Nine treatment plants are serving the entire region. A benefit is that there is no need for a sewage treatment plant which removes the burden from local governments because they benefit from the regional operation.

Mr. Henifin summarized the premise behind the enforcement action. Years ago when the EPA and DEQ recommended getting rid of sanitary sewer overflows, the concept was that localities would get as much rainwater out of the sewers as possible which is cost effective and HRSD builds larger regional infrastructures to convey and treat the sewage. He noted HRSD treats approximately 150 million gallons of sewage per day in the region; however, in wet weather scenarios, that number could increase to an additional 160 million gallons per day. He continued stating it has become difficult to get localities to understand and commit to how much they have to get out of the system and HRSD to agree to how much larger of an infrastructure they need to build. The concept was to get as much rainwater out as possible while being cost effective. The region argued with the State that we didn't want to look at the whole system because some of the system worked well; and, therefore wanted to apply the dollars where they would be most effective. The first step was flow monitoring. We narrowed down the focus of where we needed to spend our money on sewer basins that were in the worst condition. The concept behind regionalization is if everyone did that on a local level, we might not get the most cost effective solution to this problem for the whole region. If we looked at the whole system without regional boundaries and looked at the most cost effective place to apply resources as a region to solve the regional waterway management issue, there may be a more cost effective solution which may mean you make a higher investment in some localities than others. With our current structure, nobody wants to make more investment than their neighbor.

Mr. Henifin continued his presentation. We need to have the study now because we are getting ready to develop that solution set which is in the hundreds of millions of dollars across the region. If we don't look at it now and move in the direction we are, we will all have to implement our own solutions, but there may be a more cost effective way to do it.

Vice Mayor Wallace asked if one jurisdiction's course of action may be detrimental to another, particularly if individual systems are used.

Mr. Henifin replied yes and stated we are all interconnected which creates the issue of going to the lowest common denominator resulting in larger regional solutions (as in bigger HRSD infrastructures) than if everyone focused on the most cost effective solutions. For example, if one locality was tied into the same intercept and does not send enough, then the other locality will question why they have to send a higher percentage. He noted Peninsula communities affect each other and Southside communities affect each other.

Vice Mayor Wallace asked if what is being contemplated regarding our interfacing with runoff from rainwater has anything to do with our Total Maximum Daily Load (TMDL). Mr. Henifin explained the stormwater piece is separate from the sewer system; however, rain leaks into our sewer system causing an impact on it. The TMDL impact is the water we transmit and treat at high levels to meet TMDL requirements. All Hampton residents are paying a significant amount to HRSD to treat the wastewater at a higher level, but it isn't dealing with the stormwater side Hampton will face in the MS4 permit.

Councilman Stuart complimented HRSD on its commitment to safety for its employees. He asked Mr. Henifin to define the specific localities that have to come together for the betterment of the region. Mr. Henifin said HRSD serves 17 jurisdictions; but, the middle Peninsula communities including Urbana, Mathews, King William County and West Point are not connected to the regional systems; however, the localities we are referring to are Gloucester, Williamsburg, James City County, Poquoson, Newport News and Hampton on the Peninsula and Norfolk, Portsmouth, Suffolk, Chesapeake, Virginia Beach and Isle of Wight on the Southside.

Councilman Tuck asked how weather events and sewage treatments impact each other. He also said he would think HRSD would be consulted by each locality regarding size of pipe and flow and asked Mr. Henifin to elaborate on how something that one locality does has a negative impact on other localities or the whole system.

Mr. Henifin addressed the wet weather events question. Sewer pipes were built predominantly to move sewage from homes to a central treatment plant by gravity. At some point that is no longer possible because the ground is so low and flat that sewage has to be picked up and pumped and moved versus using gravity. Gravity lines were put together with pushed-on joints and sealed when built 50 or 70- years ago. Those can crack over time; roots get in giving a path for ground water as it percolates through the soil during a rain storm or the tide comes up and rainwater gets in the pipe. Our normal dry weather flow is approximately 150 million gallons per day; however, during a peak storm HRSD may treat over 450 million gallons in one day. When looking at a billable flow (the amount that goes through meters) and the amount we treat, there is approximately a 20% difference. On an annual basis, we treat 150 million gallons per day, but only bill for approximately 125 million per day. Due to all of the ground water that gets into the system, there is an increase from the amount of water that comes back to HRSD from what you use.

Mr. Henifin addressed the issue of how localities impact each other. The Hampton Roads system is complicated because the system is essentially the highways. The collection system gets sewage from the houses to our treatment plants or interceptor system (Interstate 64). Throughout the region, we have 500 miles of large diameter pressure pipe – when it is taken through all the neighborhoods in Hampton and pumped into HRSD system, you are in a large diameter pressurized pipe that gets it to our treatment plant. There are 1,000 points of connection in the region where that happens. When a new development is built, a letter is submitted to HRSD showing what will be built and how much flow it will generate. HRSD then evaluates the system to determine whether or not those requests can be approved. Overtime as the system deteriorates and rainwater gets in, there has been nothing in place to meter the flow. At the end of the consent decree work and the enforcement work between DEQ and the EPA, there

will have to be an agreement between HRSD and all local government partners to say you cannot send more than a certain amount of flow, otherwise, the system will not work.

At Councilman Moffett's request, Mr. Henefin elaborated on the impact of the TMDL, the pollution diet for the Chesapeake Bay. Scientists have determined by model the highest amount of pollution that can go into the bay on a daily basis and restore the water back to the level where it can sustain aquatic life and the plant life needed to keep the Chesapeake Bay clean and healthy. The locality's focus has been on stormwater because it takes nutrients off the ground and runs them into local waterways polluting the bay. TMDL mainly focuses on nitrogen, phosphorous and sediment which gets washed into the bay creating problems with algae blooms which kill the aquatic life and reduce the amount of oxygen. Over the last six years, the wastewater treatment world has been making major investments to deal with the issues of nitrogen and phosphorus. The plants were not built to remove nitrogen and phosphorus; therefore, new processes were added to meet those limits. HRSD has spent over ½ billion dollars upgrading plants, but still has more to do to meet its portion of the TMDL.

Mr. Henefin continued with his presentation. He said the resolution on the evening agenda is non-binding, but Council's willingness to participate in the study and commit to looking at the results is binding. He noted this will require a large personnel piece including a legal team, a financial management team and engineers to understand the value of the assets. This is a massive undertaking and we don't think we can do it at the same time we are trying to meet our obligations under the enforcement actions by the State and Federal governments. This resolution is contingent upon getting relief from them; and, therefore, HRSD plans to approach them in May regarding that relief.

Mr. Henefin concluded his presentation. Hampton is the 6th locality to consider this resolution which has been passed in all of the other localities. Until the study is complete, we will not have information to make an informed decision on whether or not it makes sense to move forward with consolidation. HRSD is requesting every locality give the study serious consideration. He noted the study is being funded by HRSD; however, it actually comes from the citizenry indirectly through their sewer bills. The estimated overall cost is from \$500,000 to \$1,000,000 to get it done within a year, particularly when dealing with 14 localities and all of the complicated issues. He asked Council to consider this and stated the time is right and he believes this is the right thing for the region.

Public Works Director Anthony Reyes greeted the Mayor and members of Council and voiced his and his staff's support to move forward with the study.

Ms. Bunting noted this item is on the consent agenda for the evening meeting. She further noted Council will be kept apprised of the efforts of the study, assuming DEQ grants the extension to do the survey.

PRESENTED by Mary Bunting, City Manager. Additional information was provided by Ted Henefin, Executive Director of the Hampton Roads Sanitation District, and Tony Reyes, Director of Public Works.

2. 12-0135 Budget Briefing

Ms. Bunting announced that the Governor made amendments to the Virginia Retirement System (VRS) reform legislation; and therefore, she felt it was necessary for Council, the public and City employees to be briefed on those proposals and on how she intends to move forward with the Manager's Recommended Budget. She introduced Finance Director Mr. Karl Daughtrey to give the overview of the Governor's reform.

Mr. Daughtrey greeted the Mayor, members of Council, City Manager and City Attorney and stated he participated in a conference call with the Governor's staff and the Executive Director of the Virginia Retirement System (VRS) with the purpose of discussing the amendments the Governor proposed for House Bill 1130 (HB1130). Mr. Daughtrey updated Council on those proposed changes. A copy of the presentation is attached to the minutes.

Mr. Daughtrey elaborated on information in slide three of the presentation. He explained HB1130 changes the average final compensation calculation from 3 to 5 years and caps the Cost of Living Adjustment (COLA) at 3% as opposed to the 6% for existing employees with less than 5 years of service. He noted Council was briefed on those changes at the March 28th Council meeting.

Mr. Daughtrey elaborated on information in slide four of the presentation regarding the Governor's proposal to amend Senate Bill 498 (SB498) which is identical to HB1130 and allows localities to do what the School Boards are allowed to do under HB1130. He noted that making the changes referenced in slides 4 and 5 immediately will offer the best benefits to the City and the employees.

Councilman Tuck asked if there are future salary increases, would the amount of the offset decrease? Mr. Daughtrey replied, an offset is required, and the minimum offset we could give is 1% per year and you have to pass on a 1% contribution to employees at a minimum.

Councilman Tuck asked, regarding employee contribution, if we could potentially grandfather existing employees who have five or more years of service and how those having less than five years get impacted in a different manner? Mr. Daughtrey replied employees who began working July 1, 2012 will be required to pay 5% into the retirement system with no offset; however, for recruiting purposes, the City Manager may have to adjust their salaries resulting in the possibility of no actual savings.

Councilman Tuck asked if there will be a time in the future when existing employees will be expected to contribute to their own retirement. Ms. Bunting clarified the employees will be contributing the 5% in perpetuity; therefore, will be contributing to their own retirement. This legislation ensures those existing employees don't take an effective pay cut as a result of that shift. Existing employees will be held constant through this offset provision and will always in perpetuity pay the 5% on their own behalf, but those who are already employed will not do that at an expense to their take home pay account. She explained the existing employees are not taking a loss; however, new hires will always pay the 5% and not get an offset.

Councilman Tuck asked for clarification that we are paying 5% plus this year so they aren't made worse off by this change. Ms. Bunting and Mr. Daughtrey concurred. Councilman Tuck asked what will occur next year – will we pay the 5% or will they contribute the 5% so potentially the next year, they will become worse off? Ms. Bunting

clarified the base salary will be adjusted by 6% to hold employees constant, and that salary increase will continue in perpetuity, so they will always have the funds to pay the 5%.

Ms. Bunting addressed the concern that this only costs the City \$1.7 million which some citizens did not think was enough to pay raises. She explained, it does cost more, but we are paying 5%, approximately \$3 million per year, on their behalf. In the future, we won't be paying that \$3 million which can be given in the form of a salary increase, but to give a salary increase that makes them whole, it costs closer to \$4.7 million. The net increase is \$1.7 million.

Mayor Ward noted this is confusing because we are not accomplishing anything and no one is actually saving money.

Mr. Daughtrey concurred with Mayor Ward and said a question posed to the Governor's staff was "Who is benefitting from the change"? The system is not getting any additional funds; we are putting in the same contributions while passing on costs to both parties. However, the General Assembly has stated Virginia is one of the states which has not done this and the public perception was Virginia has to do it at some point. He noted another pressure was because some corporate America plans similar to this require employee contribution.

Mayor Ward expressed concern that there may be public perception that employees are getting a 5% or 6% percent raise; however, employees will not benefit by this in any way.

Mr. Daughtrey also noted that the General Assembly has said when you have future increases in contribution rates, employees will pick up some of that increase, and all of that would not have to be picked up by the locality.

Vice Mayor Wallace asked for clarification if the State was the beneficiary in this process and if this is a process they are using to transfer the cost out of the General Fund appropriations that would normally be paying the cost to other entities (cities and employees).

Ms. Bunting replied every local government is in its separate pool. She clarified that no more money is going into our local VRS pool as a result of this shift; instead, the 5% is shifting from the local government to the employee. In our case, the State never put money into our local pool.

Ms. Bunting stated the School system is more complicated because local School systems are all in the State rated pool. States fund School systems by adding up the standards of quality, assign a cost which is artificially low to what it takes to implement those standards of quality and they pay a percentage, but the locality makes up the difference. Teacher costs include retirement benefits. As they do this at the State level, the local School system pays more for retirement.

Vice Mayor Wallace noted initially the philosophy in the VRS regarding not passing costs to employees was because they were compensating employees for a lower salary base by having a less intrusive impact on their personal wages.

Ms. Bunting concurred with Vice Mayor Wallace. She said many years ago, rather than giving compensation increases, the State decided to pick up this cost for employees. It benefited them because it avoided certain tax implications which didn't cost as much as giving a 5% raise and saved money by picking up the 5% benefit. It has continued in perpetuity ever since. The reasoning was if we are going to make employees pay it, we should offset it – because it was done in lieu of compensation and we don't want employees to have a net loss of pay. She noted this does not save money; however, it is a political decision that we will have to implement.

Ms. Hudson said another justification stated during the conference call was if the contribution rate gets passed to the employees, and the employees don't have the ability to manipulate how much they contribute; there would be a floor on how much is going into these plans based on what the employees have to contribute; whereas, the employer has more latitude to manipulate how much the employer contributes. This was the only rationale that could be construed as a positive for the State benefiting in terms of the soundness of the plan.

Mr. Daughtrey continued his presentation and elaborated on slide 6 of the presentation. There is an option that allows localities to use the FY12 contribution rate or the FY13 rate, whichever is higher. Our FY12 employer portion rate was 15% and the rate for FY13 is 18.5%; therefore this option could save approximately 3%; however, this option allows you to pay less than the actuarially required rate. The State is currently doing this and recently approved a process to return to the actuarially required rate because this is not a good practice and is how the VRS plan got underfunded. They are allowing localities to do this in an effort to fund additional costs for implementing the 5% contributions. This is the option on the table which will allow cities and counties to fund the additional cost, but will result in significant future contribution rates and costs to cities; and therefore, we do not think that this is fiscally sound or prudent. He noted we believe there is a fiscal process to apply for this option because if your plan is not properly funded, VRS will most likely not permit you to do this.

Councilman Spencer stated some localities and the State did not always properly fund, but we always have. Ms. Bunting concurred and said we have always funded our actuarially required rate. Councilman Spencer asked do we get an amount that reflects that we have properly funded our employees.

Ms. Bunting explained every locality pool is separately rated and the employer contribution is not the same in every case. The actuary does a study based on the people in the system and the factors which go into accessing future retirement costs, how much interest earnings there are and the expected investment rate and then gives a contribution rate designed to fully fund the plan. Every locality has that individual calculation made for them and the State has one made for it which includes the teacher system.

Councilman Spencer asked if people in improperly funded pools receive an artificially higher retirement benefit than they deserve. Ms. Bunting explained everyone gets the same retirement benefit because we are all in the VRS System. If we were to take this option and not do what we need to do, in the future, our employer contribution would be higher. Her supposition is that the actuarial study is producing for every individual locality a rate that is higher for those that have underfunded their plan in the past and

lower for those who have funded it on target. Everyone has a different rate based on the set of circumstances.

Councilman Spencer said this means we are benefiting from having done the right thing all along and those who have been underfunding are seeing a greater increase in what they should fund. Ms. Bunting concurred and said the School systems have large pension increases this year because the State is trying to correct that wrong and are doing it at 70% of the rate versus 100%.

Vice Mayor Wallace said the State is saying we will now allow you to invoke a system we have invoked and we know it is not good, but we will allow you to do it anyway which in his opinion, doesn't make sense.

Mr. Daughtrey said from an accounting perspective when you look at the comprehensive annual financial report, when you underfund under the actuarially required rate, it creates a net pension obligation that you have to disclose to the readers of your financial statements. This is something rating agencies and others look at.

For the benefit of retired employees, Vice Mayor Wallace clarified this does not impact the Hampton Employee Retirement System (HERS). Mr. Daughtrey concurred and stated it in no way impacts the HERS plan; this is a separate and independent plan sponsored by the City of Hampton, Hampton School Board and is separately evaluated. He reiterated that the changes only relate to the VRS.

Vice Mayor Wallace added it has been actuarially funded each year. Mr. Daughtrey concurred. Ms. Bunting noted HERS is a closed system and there have been no new employees in the system since the mid 1980's.

Ms. Bunting reminded everyone that the budget will be released on Friday, April 13th. During the first Budget Hearing on Wednesday, April 25th, we will summarize what the Manager's Budget contains. She noted she will meet with the Daily Press Reporter and the Editorial Board to ensure they understand the release of the budget. She also offered to go over the budget individually with members of Council if needed.

Ms. Bunting commented on the soon to be released budget. This has been a difficult budget due to the third year of declining revenue for both the City and the School system. There will be nominal changes in fees and taxes. There will be departmental budget changes that will align with the citizen input which came from a variety of sources. For example, people stated they were willing to incrementally change facility hours, but not close facilities. There will not be a lot of drastic change in the budget; however, we strive to take care of our employees. For example, we want to ensure our employees do not have a loss of pay with regards to the VRS changes and that they receive monetary and non-monetary recognition. There will be minor investments in priority areas; for example, our commitment to continue to expand our Nights Welcome Program. The largest investments will be in our Waterways Plans and Capital Improvement Plan (CIP). The budget release will honor the commitment from the citizen Waterways Committee.

Ms. Bunting cautioned that while there are reports of a State Budget compromise and adoption, the details of that budget will not be released until Sunday, April 15th. We have strived to provide the best guidance, but will likely need to make changes as a

result of that State budget detail. Staff will provide Council with a series of modifications as soon as the detailed information is received.

Councilman Moffett asked Ms. Bunting to identify for the record what we have accomplished regarding the waterways, shoreline protection and flooding.

Ms. Bunting addressed the FY12 budget as it relates to waterways, shoreline protection and flooding. We put \$2.5 million into the budget for the home elevation program, a revolving loan program that allows homeowner's access to capital that they may otherwise not be able to get in this difficult financial time. There is a natural inclination not to go to home equity lines of credit or loans because of the crackdown in the housing market. We did not want to stop residents from making investments for home elevation; and therefore, we provided a low interest loan program which Council adopted several months ago. In addition to the program, we worked with homeowners to get where their homes meet the benefit cost analysis to receive full State and Federal funding of their home elevations. We try to align with the Federal and State resources first. This program is a backstop for people who did not qualify for that or who needed help in making their minimal match to those State and Federal funds.

Ms. Bunting continued stating the Waterways budget made several recommendations. For example, obtainment of Light Detection and Ranging (LIDAR) data to have better information about water flow issues in our community. We received the LIDAR data a few weeks ago. This citizen committee initially thought we might have to fund this; however, we were able to leverage State resources. How we use that data will be impacted in our FY13 budget and we will begin to use that data to prioritize projects. The Committee also recommended we do a review of our stormwater utility to make sure all users were being billed appropriately. Council received information where updated impervious records showed some of our businesses added impervious area and should therefore be billed for higher rates. We have implemented that recommendation from the Waterways Committee this current fiscal year which generates more money for the stormwater system.

Ms. Bunting addressed the FY13 budget as it relates to waterways, shoreline protection and flooding. There are capital projects and operating projects that will be in the budget. The adopted CIP had \$19.1 million for the 5 years of the CIP that would be rolled into the Waterways Management Program. During the first year, \$2.9 million would be used for the following: (1.) Salt Pond maintenance dredging. (2.) funds several watershed studies which gives better data for corrective action as well as fills a TMDL requirement. (3.) deals with the Best Management Practices Plan to meet the Phase II Watershed Implementation Plan (WIP) which is consistent with TMDL milestone requirements. We will use LIDAR data to drive program prioritization developing current and future probable tidal and flooding impacts. We will study the transfer development rights and/or purchase of development rights to promote the creation and preservation of natural areas in environmentally sensitive or flood prone areas. We will support the Regional Sediment Management Plan. As the watershed studies are completed, we have implementation dollars to fund recommended capital projects.

Ms. Bunting listed other items in the FY13 budget not included in the CIP but handled through general fund or special revenue dollars as (1.) hiring the experienced grant writer. (2.) organizing citizen advocacy and grass roots lobbying efforts. (3.) creating on-going programs to educate the public on the values and benefits of shoreline protection

and waterway management. (4.) developing more effective programs for warning those living in areas in which eminent flooding is anticipated before events (5.) beginning staff work on easement language to accomplish protection of shorelines where there is a willingness to do it. (6.) identifying other regulatory methods to ensure TMDL and stormwater compliance that are short of law enforcement actions (ordinances we might need to review and update).

Ms. Bunting stated there are certain strategy codes in the Waterways Management Plan and this year we have done Stormwater (SW) 2A, 3B and 3C. All of the things she discussed in next year's budget covers Tidal Flooding (TF) 1C, 2B, 2C and 2D; Stormwater (SW) 1D, 2A, 3A, 3D, 3B, 4C, 4D and Shoreline Protection (SP) 1C, 1D, 2A and 2B. There is tight alignment that the citizen Waterways Committee has done in a genuine commitment to continue those investments. Ms. Bunting clarified we were not able to do some of those codes until we got the capital money recommended for last year; so, some of the codes have been done and some will be done in FY13.

Mr. Bunting added we did Factory Point and Back River Dredging last year. Council chose to invest \$4.1 million in restoration of Factory Point and Back River dredging which is a substantial commitment in addressing waterways issues.

Councilman Stuart recommended Mayor Ward and Vice Mayor Wallace poll Council to see if they would agree on having monthly briefings on waterway issues. He noted these challenges face most of Hampton citizens; and therefore, he feels it is necessary for the public and Council to be briefed on these issues on a regular basis.

Councilman Tuck said he spoke with a family who lives on Pochin Place about the on-going drainage issues. He asked if there are any future plans to address these issues.

Ms. Bunting said she would need to speak with the Public Works staff regarding details of different streets; however, we continue to put \$585,000 each year in the neighborhood drainage program and prioritize it based on the data she previously spoke of.

Assistant City Manager James Peterson stated the problem on Pochin Place is a result of dredging which has to be done for Indian Creek. We have an on-going project; however, one of the issues is the right-of-way to do dredging in Indian Creek to correct the problem on Pochin Place.

Councilman Spencer said he has asked about this topic for years because most of the drainage pipe is full of mud. We had plans independent of the other plans to do drainage there. He asked Mr. Peterson to explain why we were not able to work on this several years ago.

Mr. Peterson explained Council appropriated almost \$1 million on the Capital Project Budget to do the dredging for Indian Creek. Pochin Place is having drainage problems because the water is not flowing down across Kecoughtan Road to the Hampton Roads Channel. Parts of Indian Creek have pristine looking property and there is no standing water, but we have to bring water through that area in order to get it to the other side. Citizens own the bottom of Indian Creek; therefore, we needed permission or easements to do the work. He added we have been working through that process for a while.

Councilman Tuck said in the case he was referring to, the water that comes down the street does not go into the drain; therefore, this resident has constant issues regarding the height of the water to the extent that they had to replace their heating and air conditioning. He said there is a problem in both the front and back (of the house).

Mr. Peterson noted the majority of the complaints related to houses having erosion take place on the back side as a result of the creek. He noted most of the drainage happens on the roadway itself. The majority of the time, the ditches are cleaned out well, but if they are not, it will pond some on the road because we are using natural roads to move the water.

In response to Councilman Stuart asking for information regarding what hurdles are ahead of us, Mr. Peterson stated a meeting with the homeowners is scheduled in April, after which staff will provide a report to the City Manager to forward to Council.

In response to Councilman Tuck, Mr. Peterson clarified the meeting is not with the homeowners of Pochin Place; instead, it is with the homeowners that the City needs to have agreement with in order to do the dredging.

Councilman Moffett agreed with Councilman Stuart's recommendation for monthly waterways' briefings because it is important that the citizens know that Hampton is moving forward.

Vice Mayor Wallace stated part of that process should include discussing new data as it relates to impervious areas and curbs and gutters because some citizens may expect curbs and gutters only to discover the rules have changed. He suggested educating those communities so they won't have unrealistic expectations.

Vice Mayor Wallace recommended having signage in those areas where work is being done regarding waterways to let citizens know how their tax dollars are being used and so that people can ride by those areas to see what is being done.

Ms. Bunting said she would update Council as appropriate regarding waterway issues. She noted Council has been receiving information in their Friday memos, but Councilman Stuart's suggestion will help the public to be informed as well. She added there are other public advocacy channels we can use; the Round Robin show, face book and e-news for example. She said part of the plan is to increase citizen understanding and education by using a multiplicity of channels.

PRESENTED by Mary Bunting, City Manager. Additional information was provided by Karl Daughtrey, Finance Director. Ms. Bunting stated that the City Manager's Recommended Budget will be released on Friday, April 13, 2012, and the first public hearing on the budget will take place on April 25, 2012, with a full briefing in the afternoon and another in the evening. Information on the recommended budget will also be provided to the Daily Press.

3. 12-0128 Briefing on the Status of Ft. Monroe

Ms. Bunting announced the National Park Service has begun their element of the public planning process to design the National Park by holding two sessions on April 30th from 2:00- 4:00 p.m. and 7:00-9:00 p.m. at the Chamberlin on Fort Monroe. They are also

receiving comments via letter, website and phone calls. She noted all of that information will be posted and made publically available.

Ms. Bunting expressed gratitude that National Park Superintendant Ms. Kirsten Talken-Spalding spent time with Girl and Boy Scouts and received youth input regarding the National Park Planning Process. She noted that youth input will be shared with Sasaki, the Master Planning Consultant for the Fort Monroe Authority (FMA).

Ms. Bunting stated although we do not have an official transfer date, the Army caretaker continues to prepare facilities for the transfer to the Commonwealth. We have billed FMA for their first payment in lieu of taxes to support our City services, and continue to have discussions regarding use of various facilities. For example, the community center is under lease to the City because of slower payments from the State; and therefore, we are considering partnering with the YMCA to have a regional summer day camp with expenses covered by the YMCA.

Ms. Bunting noted there have been large turnouts for the FMA Master Plan public meetings and we hope to have similar turn outs for the National Park Service Planning.

Mayor Ward complimented and thanked the Clerk of Council Ms. Katherine Glass and her staff for making Scout day a successful event at Fort Monroe.

Councilman Moffett asked Ms. Bunting to address the issue regarding citizens questioning the initiative by the City to convert the Wherry housing area to condominiums. He also asked her to clarify the roles of the FMA, the City, the Army and the National Park Service.

Ms. Bunting said there is a misconception that the Hampton City Council has been charged with the planning and reuse of Fort Monroe; but, that is not the case. She explained the FMA is the legal entity that the Commonwealth has charged with implementing the reuse and planning for Fort Monroe. The State (Commonwealth), which will receive the land upon the transfer from the Army, has been the driver in determining the reuse. The Commonwealth opted to create the FMA to be responsible for those decisions. She reiterated that the Hampton City Council has no legal ability to chart the course for Fort Monroe; however, two of twelve appointees on the FMA come from City Council. The FMA is comprised of five gubernatorial citizen appointees, three Governor cabinet appointees, the State Senator and Delegate whose districts overlap with Fort Monroe and two City of Hampton appointees. She stated Council and staff work well with the Board members and strive to achieve what is best for Fort Monroe. She noted there are no plans to make the Wherry Quarters condominiums and the Board took the specific action of reserving that area until the Master Planning was completed. The Board sought General Assembly ability to look at private sales of certain properties, but would not do any sales until after the Master Plan was adopted. The Master Plan has to be approved by the FMA and signed by the Governor. There is specific mention that Wherry Quarters needs to be looked at in light of the National Park designation. She reiterated that Council is in no position to achieve that.

Councilman Stuart commented that Municipal office candidates benefit from meeting with staff to learn about government topics, for example, the budget. He recommended staff hold a meeting to review information regarding Fort Monroe with Municipal office

candidates, for example, to clarify the roles of the various groups involved with Fort Monroe.

Ms. Bunting responded she, the Director of Federal Facilities Bruce Sturk, and Assistant City Manager James Peterson are willing to meet with Municipal office candidates. She noted that those who attended the Council orientation forum were briefed in detail about how Fort Monroe is structured, and the City's role. She explained that each election cycle, an orientation briefing is offered to potential Council candidates and two of their campaign staff regarding information such as the Council/Manager form of government, the budget process, the School funding formula, the Capital Project Planning as well as current issues of concern within the City. She added the attendees also receive a notebook which summarizes the information. She reiterated if someone was unable to attend the orientation briefing, staff can meet with them and responses to questions will be shared with all candidates so that everyone has the same information and is treated equally.

Councilman Moffett expressed gratitude to the Governor, Fort Monroe's Executive Director and staff, Ms. Bunting and her staff and Fort Monroe Council representatives Councilman Kearney and Mayor Ward for their efforts in making Fort Monroe a National Monument. He added that the Mayor spent many hours in Washington D.C. at her own expense in an effort to make Fort Monroe become a real National Park. He applauded President Obama for making Fort Monroe a National Monument. He also thanked the citizens who came forward and stated they wanted to see Fort Monroe become a National Park.

Mayor Ward clarified that Wherry Quarters is not available for sale and was purposefully exempted from sale in the legislation because the intent was always to create a seamless feel of the park between the Moat and the Northern Beach area. One of the maps had a pathway which would connect the two parcels; however, we abandoned that idea because we wanted to see what the Master Plan process brought. She reiterated that Wherry Quarters is not available for sale even after the Master Planning process is complete. She stated it is important for people to know that the City of Hampton has not advocated for the land sales at Fort Monroe and has not taken a position. Council was briefed in January on the lapses between the State Legislation and the historical overlays. We spoke with the FMA about continuing that conversation with David Dutton of Dutton and Associates and Kathleen Kilpatrick, State Historic Preservation Officer, to make sure the legislation is carefully crafted.

PRESENTED by Mary Bunting, City Manager.

THERE WERE NO REGIONAL ISSUES DISCUSSED

NEW BUSINESS

Councilman Spencer asked Ms. Bunting to comment on a topic Council will vote on in the evening meeting regarding Pembroke Avenue properties.

Ms. Bunting stated Councilman Spencer was referring to a series of acquisition condemnations related to a Pembroke Avenue safety improvement project that the Virginia Department of Transportation (VDOT) has funded. If certain VDOT timetables are not met, the localities lose funding and will be required to repay that funding that they

have already spent. VDOT has been challenged by Governors and Transportation Planning Organizations (TPO's) to make sure the allocated money is spent as opposed to staying on the books. VDOT has asked localities to be more aggressive in moving projects along. We are approaching a milestone on the Pembroke Avenue Safety improvements. Of the four remaining parcels, we have willing sellers, but issues such as title concerns and contacting the owners are delaying the process. Council is being asked to consider taking condemnation action tonight in order to give VDOT the comfort that we will be able to meet that milestone for those road projects. She asked Assistant City Manager James Peterson to elaborate on the topic.

Councilman Spencer said he had questions and concerns regarding how much property was being put into condemnation; so, Mr. Peterson visited the property to get information. He thanked Mr. Peterson for his efforts in getting the information.

Mr. Peterson noted Real Estate Manager Ayanna Williams was responsible for taking the photographs. He explained the drawing makes it appear that we were going across the top of the house on one of the right-of-ways we were trying to acquire at 221 Pembroke Avenue; however, the house sits within 15 feet of the sidewalk and we are taking approximately 6 feet required to do the improvements which are needed at the intersection of Pembroke Avenue and Armistead Avenue. He said we contacted the owner in November and determined the house is being rented. We are working through issues including how to redo the fence and driveway since the house is a nonconforming property. While taking four or five feet will make it worse, it will not change the ability of the owner to use the property as a rental property. We are going within five feet of the front porch.

Councilman Spencer said his concern was that the owner and tenant's position was taken into appropriate account. Mr. Peterson noted negotiations with the last property owner are on-going.

Ms. Bunting noted this means all four sellers are willing sellers. The condemnation resolution is something VDOT requires if all of the transactions have not been completed by their deadline at the end of the month.

Mr. Peterson concurred with Ms. Bunting and added VDOT permits us to go from one phase to the other and gives us milestones as we progress.

Councilman Spencer expressed concern regarding whether or not everyone had been contacted and whether or not the drawing was schematically correct with the action we are taking. The concept is that there are three left turn lanes at the intersection and we are adding a fourth left turn lane so that each intersection has two lanes each way plus a left turn lane. Mr. Peterson concurred.

Ms. Hudson said because of the more aggressive approach to utilizing highway funds, we could perhaps see more of these requests to authorize use of condemnation; however, in this case due to deadlines, you ask for permission and authorization for condemnation in case you need it for matters such as title issues. If these issues are not cleared up by the VDOT deadline, then we will have the ability to meet the deadline by filing the Certificate of Take pursuant to Quick Take procedures allowed for highway construction. She noted this is a last resort type of authority we have to get in a timely fashion.

Mayor Ward noted the reason for doing the condemnation order is to clear the title.

Ms. Hudson concurred and added a willing sale is being held up by liens and other defects in the title which take time to be cleared up and would not allow us to meet the deadline, and then you can use condemnation to eliminate those title issues.

Councilman Spencer noted the important issues are that all parties are willing and that there is always legal work which has to be done. Ms. Hudson concurred and added sometimes the legal work runs up against State deadlines.

Councilman Tuck asked whether or not it was possible to get assurance that the fourth owner will sign the necessary documents prior to the April 25th meeting. He also asked what is involved in getting the information from the owner.

Mr. Peterson noted that the last owner has been contacted by phone and mail only because they are not in Hampton; and therefore, it cannot be guaranteed that a complete confirmation can be prepared by the April 25th evening meeting. Mr. Peterson explained that details also have to be worked out such as the worth of the property, the value of the right-of way and modifications which have to be made to the lot.

Ms. Hudson stated to ensure we have the legal comfort, not in a last minute fashion, staff would recommend Council take these actions tonight, with staff's assurance that we wouldn't exercise that authority until we had to, which would be on April 29th in order to negotiate willing sale short of condemnation which is what we always do.

CLOSED MEETING

4. 12-0129 Closed Session as provided in Virginia Code Section 2.2-3711.A.1 to:

APPROVED

Motion made by: Vice Mayor George E. Wallace

Seconded by: Councilmember Will Moffett

Ayes: 6 - Will Moffett, Joseph H. Spencer, II, Christopher G. Stuart,
Donnie R. Tuck, George E. Wallace, Molly Joseph Ward

Nays: 0

Absent: 1 Ross A. Kearney, II

- . 12-0108 to consider appointments to the Citizens Unity Commission

NO ACTION REQUIRED

- . 12-0118 to consider appointments to the Hampton Clean City Commission

NO ACTION REQUIRED

- . 12-0136 to consider appointments to the Mayor's Committee for People with Disabilities

NO ACTION REQUIRED

- . 12-0137 to consider appointments to the Hampton Redevelopment and Housing Authority

NO ACTION REQUIRED

- . 12-0138 to consider appointments to the Hampton Parking Authority

NO ACTION REQUIRED

CERTIFICATION

5. 12-0130 Resolution Certifying Closed Session

WHEREAS, the City Council of the City of Hampton, Virginia, has convened a closed session on this date pursuant to an affirmative recorded vote made in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712D of the Code of Virginia requires a certification by the City Council of the City of Hampton, Virginia, that such closed meeting was conducted in conformity with Virginia Law;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hampton, Virginia, hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed session to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed, or considered by the city council of the city of Hampton, Virginia.

ADOPTED

Motion made by: Vice Mayor George E. Wallace

Seconded by: Councilmember Christopher G. Stuart

Ayes: 6 - Will Moffett, Joseph H. Spencer, II, Christopher G. Stuart,
Donnie R. Tuck, George E. Wallace, Molly Joseph Ward

Nays: 0

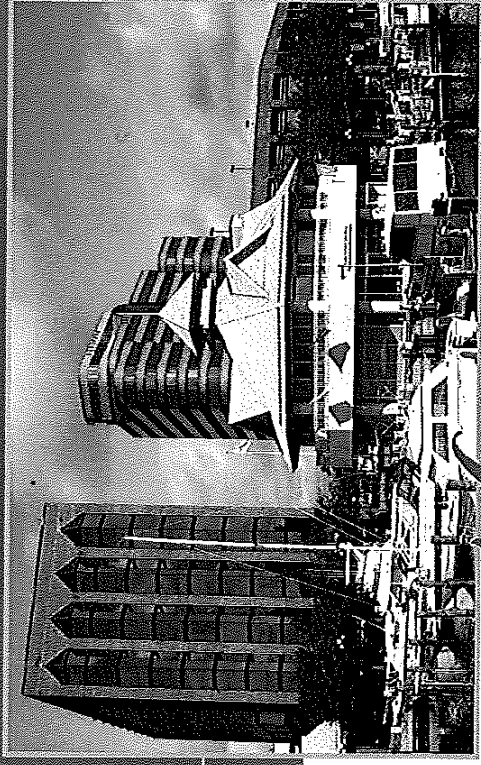
Absent: 1 Ross A. Kearney, II

Molly Joseph Ward
Mayor

Katherine K. Glass, CMC
Clerk of Council

Date approved by Council _____

Update on VRS Retirement Plan Changes



Hampton
VIRGINIA

Karl S. Daughtrey

April 11, 2012



Purpose

To brief City Council on Amendments proposed by the Governor to VRS legislation.

VRS Changes

- ✦ Governor signed HB 1130 concerning changes to the Retirement System into law.
- ✦ Requires local government and school board employees to pay a 5% contribution; offset by mandatory 5% salary increase (school boards can phase-in over 5 years)
- ✦ Creates a new hybrid defined benefit and contribution retirement plan for state and local employees hired on or after January 1, 2014 (except for hazardous duty personnel)
- ✦ Changes some of the benefits for existing employees with less than 5 years of service

VRS Changes

- ‡ Governor has proposed amending SB 498:
 - A) To allow localities to phase in 5% mandated employee contribution and 5% required salary offset over a 5-year period.
 - ‡ Can phase-in at least 1% employee contribution, offset by 1% salary increase per year
 - B) Localities that opt-out of the disability coverage for the new hybrid defined benefit and contribution plan would be required to provide comparable disability coverage.

VRS Changes

Our recommendation is to implement the full 5% employee contribution with a 6% salary offset for FY13.

- ✦ Phasing-in the salary increase over 5 years will increase the effective pay increase because of compounding
- ✦ Employees will benefit right away from higher creditable compensation for retirement benefits
- ✦ Future salary increases will impact the phase-in option

VRS Changes

Conference Report Amendment:

- ✦ Option to allow local governments to use Employer Contribution Rate for FY12 or 70% of the FY13 Employer Contribution Rate, whichever is higher
- ✦ In essence will allow localities to pay less than the actuarially required rate
- ✦ Will significantly impact future Contribution Rates
- ✦ We do not think this option is fiscally sound

VRS Changes

Questions?